

ORIGINAL

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

3 23 pages, 0 exhibits

4 MYRON WARD

5 Plaintiff, Civil Action No. 04-11E

6 v. Judge McLaughlin

7 JOHN LAMANNA, et al., Magistrate Judge Baxter

8 Defendants,

9

10 Deposition of MYRON WARD, plaintiff, by Notice, by  
11 defendants, on November 1, 2006, set for 2:00 p.m., before  
12 Barbara D. Watts, Notary Public for the State of Virginia at  
13 Large, on FCI Petersburg Low, Federal Correctional  
14 Institution, 1100 River Road, Hopewell, VA 23860.

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20 Accu-Beta Court Reporters & Videographers, Inc.

21 2006 Sycamore Creek Drive

22 Manakin-Sabot, VA 23103

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1 all counsel and paralegal appear via video-teleconferene

2 Byran Baumann, Esq.

3 Maureen Watson, paralegal

4 KNOX, McLAUGHLIN, GORNALL & SENNETT, P.C.

5 120 West Tenth Street

6 Erie, PA 16501-1461

7 814.2800412.2800

8 counsel for plaintiff

9

10 Michael C. Colville, Esq., AUSA

11 Western District of PA

12 U.S. Post Office & Courthouse

13 700 Grant Street, Suite 4000

14 Pittsburgh, PA 15219

15 412.894.7337

16 counsel for defendants

17

18 Douglas Goldring, Esq.

19 counsel, Bureau of Prisons

20

21 present with court reporter:

22 Myron Ward, defendant

23 Cornelia Janven, staff person, FCI, Petersburg

24

1 MYRON WARD, plaintiff, called by the  
2 defendants, first being duly sworn, deposes and  
3 says, viz:  
4

5 DIRECT EXAMINATION

6 BY MR. COLVILLE:

7 Q Good afternoon, Mr. Ward, my name is  
8 Mike Colville. I'm the Assistant U.S. Attorney  
9 assigned to defend the lawsuit that you filed  
10 concerning the allegation that you were injured or  
11 suffered an injury while employed with Unicor, at  
12 FCI McKean.

13 The purpose of the deposition is for  
14 me to gather some facts from you about what  
15 happened, what you were doing and how it is you  
16 believe you were injured.

17 Again, wait for me to finish the  
18 question. Pause a moment before you start to  
19 answer; then answer. If you don't understand the  
20 question, let me know and I will reask it, or we  
21 will figure a way around it. But I'm going to  
22 assume if you answer the question you understood it.

23 With those ground rules in place,  
24 let's go forward. Let me begin by telling you that

1 my records indicate that you worked in Unicor for  
2 about seven months and I have records which indicate  
3 you worked at Unicor beginning April 9 of 2002 up  
4 until October 17, '03, when you were transferred out  
5 of McKean. Is that about what your recollection is  
6 concerning your employment in Unicor?

7 A Yes. That sounds accurate.

8 Q I want to talk about two basic  
9 areas, the first being what you did at Unicor; the  
10 second area I want to talk about your injuries.  
11 Let's now focus on your employment at Unicor. Can  
12 you describe in your own words, summarize for me  
13 what you did when you heard employed there?

14 A When I was in Unicor, I worked two  
15 different shifts. I start with the first; I started  
16 off working day shift. I was working on machine  
17 called the cold press. It was, what they did was  
18 once the boards, large boards, particle boards,  
19 microboards, leave the panel saw they bring them  
20 over to the cold press to apply a glue-like  
21 substance. Then we add like a Formica or wood grain  
22 top, whatever the order calls for. We take them,  
23 after we apply the top, stack them on the pallet,  
24 and move them to the next section of the factory.

1 When not busy in that area they have us help out in  
2 other areas, wherever they send us to.

3 Q When you weren't working the cold  
4 press--

5 A I couldn't hear you.

6 Q The cold press, is that how you--

7 A C O L E.

8 Q Cold press. Okay. When you weren't  
9 working where during the day shift where else? What  
10 other areas on the factory floor?

11 A I work usually stacking down from  
12 the panel saw. Once they cut the boards down on the  
13 panel saw, they have a few guys to help take the  
14 boards down, stack them on the pallet, move them to  
15 the next section, and when they drill they drill  
16 different boards, stack down from each machine. We  
17 go to where the glue machine is at, basically just  
18 stacking down boards when we weren't busy packing or  
19 help in the packing area.

20 Q During this time when you were on  
21 the day shift, did you ever actually physically work  
22 with the boards or assist the person who was either  
23 working the router or the saws, when they cut the  
24 microboard or tack board or whatever?

1           A           Yes. Those are the areas I was  
2 speaking about. They cut it on the panel saw from  
3 the large portion. They cut it down into smaller  
4 boards, then it moves to the router, and other  
5 different machines when they rout them and drill  
6 them. I help stack down on all those machines.

7           Q           I understand that. My question is a  
8 little more specific. We have had some testimony  
9 from some other individuals who said they worked  
10 with the person operating the saw, they would hold  
11 the board while it was being cut or while they were  
12 being routed. My question to you, did you ever do  
13 that job, that is, holding the boards while they  
14 were being routed, or was your job just merely to  
15 stack the boards once all that had been completed?

16          A           No. I never operated the machine.  
17 Just stacking down right next to the machine.

18          Q           Did you ever have an opportunity to  
19 observe the panel saw when it was cutting the  
20 microboards?

21          A           Yes.

22          Q           When they were cutting it, do you  
23 recall how many boards at a time were being cut on  
24 the machine itself in any one time?

1           A           The most I have seen was nine, but  
2   it is usually always more than five.

3           Q           Just so I'm clear, understand what  
4   you are saying you are telling me, they would stack  
5   five boards, maybe up to nine boards on the panel  
6   saw, cut they all at one time?

7           A           Yes.

8           Q           How big a board or how thick of a  
9   board were they cutting at that time. You saw them  
10   nine high.

11                   MR. BAUMANN: If you know.

12           A           I couldn't tell you the measurement.  
13   I don't really know the measurements. Let me see,  
14   the size.

15           Q           Were they the same boards you were  
16   stacking?

17           A           About the size of a doorway, about  
18   that long, maybe a little longer.

19           Q           How thick?

20                   MR. BAUMANN: If you are able.

21           A           I don't know the measurements.

22                   MR. BAUMANN: If you don't know, we  
23   don't want you to guess.

24           A           I couldn't tell you right now.

1           Q           Just so we are clear though, are you  
2 positive you saw nine boards being stacked at one  
3 time, being cut at one time on the panel saw?

4           A           Yes, sir.

5           Q           When you saw this happening, did you  
6 notice whether or not the panel saw had attached to  
7 it a dust collection system that sucked up the dust  
8 that was created when the boards were cut?

9                       MR. BAUMANN: Object to form. You  
10 can answer.

11          A           I don't really know what the dust  
12 collection system looked like. I know it had tubes  
13 on it.

14 BY MR. COLVILLE:

15          Q           Do you know if the machines were  
16 fitted with any dust collection.

17                       MR. BAUMANN: Same objection. You  
18 can answer if you know.

19          A           I couldn't hear the question. It  
20 broke up.

21 BY MR. COLVILLE:

22          Q           Never mind. I will pull back. I  
23 will change my line of questioning.

24                       How long did you work the day shift



1 when you were employed with Unicor?

2 A About I want to say six months,  
3 probably six months. Then I transferred to the  
4 night shift.

5 Q Who was your immediate supervisor  
6 when you were on the day shift?

7 A I can't remember his name right  
8 offhand. It was like three years ago. I don't  
9 remember his name.

10 Q How long did you work on the night  
11 shift?

12 A I worked on the night shift. Once I  
13 transferred to the night shift, I worked there until  
14 I left in October 2003.

15 Q So about a month?

16 A Not more than a month. I was in  
17 Unicor like a year and six months, a year and five  
18 months.

19 Q I'm sorry. I have you working seven  
20 months. You are more than that. You were a year  
21 and six months.

22 A Yes.

23 Q You worked at the night shift for a  
24 little over a year?

1 A Yes, sir.

2 Q Is that true? Okay. When you  
3 worked the night shift, what were your job  
4 responsibilities?

5 A I was assigned to assembly area. My  
6 duties there were--

7 Q What did you do in that area?

8 A Basically assembly area consists of  
9 the router and the packing area, so I stacked down  
10 boards from the routers and the different curve  
11 machines, what they call them, I also worked in the  
12 packing area, help preparing everything once it is  
13 complete to be shipped out, same thing, help out in  
14 other areas when it wasn't busy.

15 Q At any time during your employment  
16 with Unicor, either on the day or shift shift, did  
17 you actually operate the router or operate the panel  
18 saw?

19 A I never operated any of the  
20 machines; just helping out, stacking down.

21 Q At any time during your employment,  
22 either on the day shift or shift night, did you ever  
23 wear the dust masks that others have talked about?

24 A Yes. I wore a dust mask.

1           Q           How long would you wear a dust mask  
2 during the period of time when you were employed at  
3 Unicor?

4           A           How long? In hours? I don't  
5 understand the question.

6           Q           I'm trying to figure out, I guess  
7 what I want, one, did you wear a dust mask while  
8 working on the factory floor? If so, how many times  
9 or did you always, trying to get a sense when you  
10 would have worn the dust mask.

11          A           Usually when I am working with  
12 certain chemicals I might put it on because I work  
13 the area. In the packing area we had to spray some  
14 type of ammonia type stuff on the tables to clean  
15 them after they finish being processed. That was  
16 usually the only time. Maybe a few other times when  
17 it was a lot of dust in the air.

18          Q           Did you ever wear the dust mask when  
19 boards were coming off the pan or the panel saw or  
20 the router?

21          A           Sometimes. It wasn't required.

22          Q           I'm sorry. I didn't understand that  
23 last part.

24          A           I say sometimes it wasn't.

1 Sometimes it wasn't required.

2 Q I see. On the occasion you did, why  
3 would you wear it?

4 A Because of the dust in the air or  
5 the chemicals that I was working with. I figured it  
6 protect me.

7 Q Can you describe what the dust was  
8 like, on the occasions you wore the dust mask?

9 A Particle board, the particle board  
10 was like wood dust. When they usually cut it, it  
11 shoots into the air when it is coming off the saw.  
12 They have the air hose blowing to keep the saw blade  
13 clear to make a clean cut, I believe. It was like  
14 wood, colored wood, chopped wood. The microboard  
15 was more like drywall. When you break drywall, it  
16 was white, chalky like substance.

17 Q Who was your immediate supervisor  
18 when you worked the night shift?

19 A Rob Bevivino.

20 Q Was Mr. English also your supervisor  
21 at that time?

22 A Yes, he was the head foreman for the  
23 night shift. It was three foremans there.

24 Q So Mr. Bevivino reported to

1 Mr. English?

2 A Yes.

3 Q So, as I understand it when you were  
4 on the night shift for a little bit over a year, the  
5 main focus of your responsibility was packaging the  
6 product and when you weren't busy packaging then you  
7 were used as needed elsewhere on the workroom floor.  
8 Is that an accurate description?

9 A I worked the assembly area. Yes, I  
10 worked stacking down, it was about even really. It  
11 wasn't doing one more than the other. I stacked  
12 down half the time. Half the time I worked in the  
13 packing area.

14 Q Let me ask you to talk a little bit  
15 about your injuries that you claim by working on the  
16 factory floor. Let me ask you first to list all the  
17 symptoms and injuries that you claim were caused by  
18 your working on the factory floor. I will write  
19 down them. Then we will go back and talk a little  
20 more after you list them. If you do that, tell me  
21 all the symptoms and the injuries that you caused as  
22 a result of you having to work on the factory floor.

23 A I had headaches, episcleritis in my  
24 eye, conjunctivitis.

1 Q What was the term?

2 A You are breaking up.

3 Q I couldn't hear the term you used.

4 A Episcleritis.

5 Q Could you spell that?

6 A Huh?

7 Q Could you spell it?

8 A E P I S C L I R I T U S, I believe.

9 That is close as I can get. It is in my medical  
10 records.

11 Q What else? Headaches, EP rights  
12 rights?

13 A Conjunctivitis. I had what is  
14 called lymph nodes. Chronic sinusitis. Rumenitis.  
15 Nasal swelling. Nasal soreness. And uncontrollable  
16 coughing. Dermatitis. Respiratory problems. That is  
17 about all I can remember right off the top of my  
18 head without any medical records in front of me.

19 Q Mr. Ward, of all those symptoms and  
20 injuries you have outlined, do you currently have  
21 any of those symptoms or injuries that you are  
22 presently suffering from today?

23 A Yes, sir.

24 Q Can you tell me which ones?

1           A           Still have chronic sinusitis, the  
2   nasal swelling, nasal soreness, and the coughing. I  
3   believe that might be about it.

4           Q           Have you actually had a formal  
5   diagnosis of chronic sinusitis?

6           A           Yes, sir.

7           Q           Who diagnosed you with that  
8   condition?

9           A           Medical staff here at Petersburg and  
10   medical staff in FCI McKean.

11          Q           Did you have chronic sinusitis prior  
12   to being incarcerated at McKean or prior to working  
13   at Unicor?

14          A           No, sir.

15          Q           What about swelling and soreness?  
16   Tell me a little bit about that, a little more  
17   detail.

18          A           Nasal swelling?

19          Q           Yes.

20          A           Basically--

21          Q           What do you mean by that?

22          A           Inside my nasals, swollen, usually  
23   at night, both of my nasal passages are closed up.  
24   So I am mostly breathing out of my mouth. When I

1 wake up in the morning, one side might clear up,  
2 become unswollen, but they stay swollen, but I can  
3 breathe out of one side basically all day.

4 Q Are you receiving medication for  
5 that or any current treatment from the medical  
6 staff?

7 A Yes, sir. It is called fluensilizer  
8 {phonetic}, steroid nose spray, is the strongest  
9 thing they can give me --

10 Q Why is that?

11 A The strongest thing they can give  
12 me.

13 Q What about the coughing that you  
14 described? Tell me about that.

15 A The doctor explained it. He said  
16 because my passages are clogged up, the mucous and  
17 stuff runs down my throat and causes me to cough a  
18 lot.

19 Q Is there a certain time of day you  
20 cough more than others, or is it pretty consistent  
21 throughout the day?

22 A More at night when I'm laying down.

23 Q How about with the swelling, nasal  
24 swelling and soreness? Is it more in the morning or



1 present each throughout the day.

2 A My nasals stay swollen. They never  
3 really go all the way down, but it gets worse as I  
4 get in a still position.

5 Q Have your headaches pretty much  
6 resolved?

7 A I get them sometimes.

8 Q The conjunctivitis, that has to do  
9 with your eyes; does it not?

10 A Yes, sir.

11 Q Did you have problem with  
12 conjunctivitis prior to working at Unicor?

13 A I might have had it one other time.  
14 I'm not sure.

15 Q Why don't you tell me a little bit  
16 about the problem you have with your lymph nodes.  
17 What was the problem there?

18 A Well, when I was in McKean is when I  
19 first went in and got checked for any nasal problems  
20 they discovered lymph nodes on my neck. When I  
21 arrived in Petersburg, the specialist recommend that  
22 he take them out so he can examine them. So I had  
23 to go through a surgical operation.

24 Q Did they do that?

1           A           Yes. I went through a surgical  
2 operation to have them surgically removed.

3           Q           When was the surgery performed?

4           A           You broke up. I couldn't hear you.

5           Q           Where was the surgery performed?

6           A           In Southside Regional Hospital.  
7 They took me out.

8           Q           Do you remember the name of the  
9 physician who performed the surgery?

10          A           I couldn't tell you that.

11          Q           When they took the lymph nodes out,  
12 did they do a biopsy on the lymph nodes? Do you  
13 know?

14          A           Yes. It was lymph node biopsy.

15          Q           What did they find, if you know?

16          A           I believe he said it wasn't  
17 cancerous, I believe.

18          Q           Did anybody tell you what caused the  
19 problem with the lymph nodes?

20          A           They said usually some type  
21 infection or you been infected by a substance or  
22 something that the body don't-- I don't really  
23 know. I can't remember exactly what they said.

24          Q           You mentioned a respiratory problem.

1 Can you tell me a little bit about that?

2 A Usually it has to do with, I guess,  
3 all this combined, the sinus problem and nasal  
4 swelling, I can't really breathe properly. When I  
5 am trying to exert a lot of energy, I can't exert a  
6 lot of energy like I used to, without running out of  
7 breath, anything strenuous.

8 Q Are you currently working at the  
9 facility where you are incarcerated at?

10 A Yes, sir.

11 Q What do you do there?

12 A I work in the print factory, a clerk  
13 in the print factory.

14 Q Has the respiratory problem resolved  
15 itself?

16 A Has it resolved itself?

17 Q Has the respiratory problem resolved  
18 itself?

19 A No. I still have respiratory  
20 problems. I forgot to mention it when you asked.

21 Q Are you currently receiving  
22 treatment or medication for the respiratory  
23 problems?

24 A No. Only thing I receive is the

1     fluensulate {phonetic} and saline nose spray, like  
2     sinus tablets I have to purchase at the commissary.

3             Q             The medications, do they help?

4             A             No. They might work for when I  
5     first use them. After about 30 minutes, same thing  
6     again.

7             Q             Other than the specialist you saw  
8     for the lymph nodes, have you been sent to any other  
9     specialist outside of the Bureau of Prisons system?

10            A            No. That was the only time I been  
11   to the outside hospital.

12            Q            Has anyone ever taken a chest X ray  
13   of you?

14            A            No, sir.

15            Q            Mr. Ward, do you smoke?

16            A            No, sir.

17            Q            Have you ever smoked?

18            A            No, sir.

19            Q            Were you present during the OSHA  
20   inspection at FCI McKean?

21            A            They came during the day shift  
22   hours. I was working on the night shift then.

23            Q            That is all I have. Thank you,  
24   Mr. Ward.

1                   A           Okay.

2

3                               CROSS EXAMINATION

4   BY MR. BAUMANN:

5                   Q           Mr. Ward, you testified about a  
6   surgical procedure to your lymph nodes. I think you  
7   said occurred at Southside Regional Hospital.

8                   A           Yes, sir.

9                   Q           Do you know where that is located?

10                  A           No.

11                  Q           What city and state?

12                  A           It is in Virginia. Is in my medical  
13   records but I don't remember the exact city it is  
14   in. It not far from here. About 20 minutes from  
15   Petersburg.

16                               MR. BAUMANN: Okay.

17                               SIGNATURE IS DISCUSSED AND NOT

18                   WAIVED.

19                               TIME: 2:36 p.m.

20

21

22

23

24

1

## ERRATA

2

I, Myron Ward, certify I have read

3

my deposition of November 1, 2006, and such is

4

complete and accurate except as listed below.

5

Each page of corrections is signed.

6

Now is            Should be            Reason

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Witness \_\_\_\_\_

18

19 Sworn to and subscribed before me, \_\_\_\_\_

20 \_\_\_\_\_, Notary Public for the State of

21 Virginia at Large.

22 My commission expires \_\_\_\_\_, 20\_\_\_\_.

23 Witnessed this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

24 \_\_\_\_\_ Notary Public

1 STATE OF VIRGINIA  
2 COUNTY OF GOOCHLAND

3

4

CERTIFICATE OF NOTARY PUBLIC

5

6

I, Barbara D. Watts, Notary Public

7

for the State of Virginia at Large, certify I

8

reported the foregoing and such is complete and

9

accurate to the best of my ability.

10

The witness, who was sworn by me,

11

did not waive signature.

12

I am not related to any counsel,

13

party, or witness, and have no interest in the

14

outcome of this matter.

15

My commission expires May 31, 2009.

16

Given under my hand this 7th day of

17

November, 2006.

18

Barbara D. Watts

19

Barbara D. Watts, Notary Public

20

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